

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

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SECRETARY OF STATE

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD
)	OF MEDICAL EXAMINERS
WILLIAM R. KINCAID, M.D.)	
RESPONDENT)	DOCKET NO.: 17.18-125599A
)	
DYERSBURG, TENNESSEE)	
TENNESSEE LICENSE NO.: 37656)	

FINAL ORDER

This matter came to be heard before the Tennessee Board of Medical Examiners (hereinafter the "Board") on July 22, 2015, pursuant to a Notice of Charges and Memorandum for Assessment of Civil Penalties issued against Respondent. Presiding at the hearing was the Honorable D. Kim Summers, Administrative Judge, assigned by the Secretary of State. The Division of Health Related Boards of the Tennessee Department of Health was represented by Jennifer L. Putnam, Assistant General Counsel. Respondent, William R. Kincaid, M.D., (hereinafter "Respondent"), was present and represented by Guy W. Blackwell, Esq. After consideration of the Notice of Charges, the evidence presented by the State, arguments of counsel, and the record as a whole, the Board finds as follows:

I. FINDINGS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number 9750 by the Board on April 27, 1976, which has a current expiration date of May 31, 2017.

2. Respondent was the president, majority owner and managing partner of McLeod Cancer and Blood Center ("McLeod Cancer") which provided care and treatment for patients with cancer and blood diseases.
3. On or about September 2007, McLeod Cancer began purchasing assorted chemotherapy drugs from Quality Specialty Products ("QSP"), a business in Canada.
4. The drugs provided by QSP to McLeod Cancer were administered to patients and claims for reimbursement were submitted to Medicare, TennCare and other health benefit programs.
5. In late 2007 and early 2008, nurses at McLeod Cancer observed that the packaging for chemotherapy drugs obtained from QSP bore labeling in foreign languages, establishing they were not approved for use in the United States. After the nurses raised their concerns with Respondent, the decision was made to stop ordering drugs from QSP.
6. In approximately August 2009, Respondent and his partners decided McLeod Cancer would resume purchasing misbranded unapproved drugs from QSP.
7. To prevent the nurses from learning that McLeod Cancer was again purchasing unapproved foreign drugs, Respondent directed his business manager to have the drugs shipped to a storage business in Johnson City which Respondent owned in part.
8. The drugs were then transported by the business manager and others from the storage business to McLeod Cancer and placed by a pharmacy technician into the clinic's drug storage where the misbranded drugs were mingled with FDA-approved drugs from legitimate sources. The FDA-approved drugs were still shipped directly to McLeod Cancer and not to the storage business.
9. From approximately September 2007 to early 2008 and from August 2009 to February 2012, McLeod purchased over \$2 million dollars in misbranded unapproved drugs,

provided those drugs to patients and billed Medicare, TennCare and other government health benefit programs approximately \$2.5 million dollars.

10. On December 11, 2012, Respondent pled guilty in U.S. District Court to one count of receiving in interstate commerce a misbranded drug with intent to defraud or mislead. Respondent was sentenced to twenty four months in prison and a \$10,000.00 fine.
11. On June 10, 2013, Dr. Kincaid entered into a Settlement Agreement with the United States and State of Tennessee to pay the United States \$2,263,125 and the State of Tennessee \$286,875, both with interest and civil penalties. Dr. Kincaid has paid the penalties in full.
12. On or about July 2013, Respondent reported to Federal Prison Camp ("FPC") Maxwell, a minimum security camp in Montgomery, Alabama.
13. On November 14, 2014, after serving 16 months of a 24 month sentence, he was released early and sent to a halfway house in Knoxville.
14. On February 10, 2015, he was released early from the halfway house and allowed to live at home.
15. On April 17, 2015, per the conditions of the Settlement Agreement, he was placed on a one year term of supervised release.

II. CONCLUSIONS OF LAW

16. The facts stipulated in Section I, paragraphs 5 through 9, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct.

17. The facts stipulated in Section I, paragraphs 5 through 9, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(3):

Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice or being guilty of fraud or deceit in the practice of medicine

18. The facts stipulated in Section I, paragraph 10, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(10):

Conviction of a felony, conviction of any offense under state or federal laws relative to drugs or the practice of medicine, conviction of any offense involving moral turpitude

19. The facts stipulated in Section I paragraphs 4, 9 and 10, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(14):

Dispensing, prescribing or otherwise distributing any controlled substance or other drug to any person in violation of any law of the state or of the United States

III. POLICY STATEMENT

The Board finds Respondent guilty of violating the Tennessee Medical Practice Act. We feel that revoking Respondent's medical license is appropriate and necessary to protect the health, safety and welfare of the citizens of Tennessee.

IV. ORDER

THEREFORE, in consideration of the above Findings of Fact and Conclusions of Law, it is **ORDERED, ADJUDGED, and DECREED** as follows:

20. The Tennessee Medical License of William R. Kincaid, M.D., license number 37656, is hereby **REVOKED**, effective the date of entry of this Order.

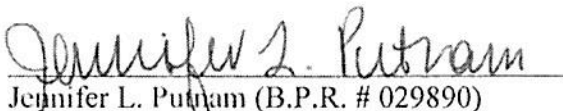
21. Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j), the actual and reasonable costs of prosecuting this case to the extent allowed by law including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. Said costs shall not exceed three thousand dollars (\$3,000.00).
22. Any and all civil penalties and cost shall be paid in full within thirty (30) days after the issuance of the Assessment of Costs. Payment shall be made by **certified check, cashier's check, or money order**, payable to the **State of Tennessee, Department of Health**. Any and all payments shall be forwarded to the **Disciplinary Coordinator, The Division of Health Related Boards, 665 Mainstream Drive, 2nd Floor, Nashville, Tennessee 37243**. A notation shall be placed on said money order or such check that it is payable for the Affidavit of Costs of William R. Kincaid, M.D., Docket No. 17.18-125599A.

So **ORDERED** by the Tennessee Board of Medical Examiners this 22nd day of July, 2015.



Panel Chairperson
Tennessee Board of Medical Examiners

PREPARED FOR ENTRY:



Jennifer L. Putnam (B.P.R. # 029890)
Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

7/28/15
DATE

RECONSIDERATION, ADMINISTRATIVE RELIEF AND JUDICIAL REVIEW

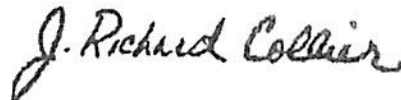
Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition with the Board, it is deemed denied. TENN. CODE ANN. § 4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. TENN. CODE ANN. § 4-5-316.

Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. TENN. CODE ANN. § 4-5-322.

CERTIFICATE OF FILING

This Order was received for filing in the Office of the Tennessee Secretary of State, Administrative Procedures Division, and became effective on the 30TH day of July, 2015.

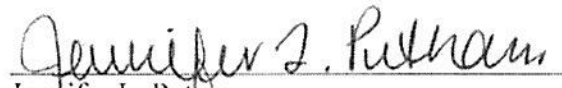


Richard Collier, Director *UNC*
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document, as yet unsigned by the chair, has been served upon Respondent William R. Kincaid, M.D., through Respondent's attorney, Guy W. Blackwell, Esq., 138 Saylor Road, Johnson City, Tennessee 37615-4331, by delivering same in the United States First Class Mail, Postage Pre-Paid, with sufficient postage thereon to reach its destination and via email to gwblawoffice@comcast.net, on the 23rd of July, 2015, and

that a true and correct copy of this document, as entered, has been served upon Respondent William R. Kincaid, M.D., through Respondent's attorney, Guy W. Blackwell, Esq., 138 Saylor Road, Johnson City, Tennessee 37615-4331, by delivering same in the United States Mail, Certified Number **7014 3490 0000 6660 5814**, return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination and by via email to gwblawoffice@comcast.net on the 31st of July, 2015.


Jennifer L. Putnam
Assistant General Counsel